

## ALABAMA ATTORNEY GENERAL TROY KING



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### From the Desk of Attorney General Troy King

The Alabama Legislature is now in Regular Session. Once again, there will be great debate about the most important issues currently facing Alabama. Already, the news has been filled with the awful news that tax revenues are inadequate to continue funding government services at their current levels, that the Governor has declared proration, and that we can expect much of the legislative session to be filled with debates over how to most effectively allocate those dollars that are available to state government. However, even amidst these debates and conversations, the Governor and the Alabama Legislature should not overlook the fact that there are other important pieces of legislation waiting for their attention, including those bills that comprise my 2009 Crime Package. Many courageous victims and survivors of crime recently stood beside me at press conferences across Alabama as we sought to build public support for these important measures. I continue to believe that we owe a high and sacred obligation to those heroes of law enforcement who serve our State, often sacrificially, to give them the tools to more effectively curb crime and to punish those who break our laws. We owe a similar duty to those who have entered, or who will enter, the criminal justice system as victims, not because of a choice that they made, but because they were dragged there. In this legislative session, my legislative package seeks (just like the ones before it) to put in place important new protections and prosecutorial options to hold fully accountable those who prey upon our children.

The centerpiece of my legislative package is the bill amending Alabama's Community Notification Act. While many of the changes in this bill are required by the newly enacted federal Adam Walsh Act, this bill also contains many new provisions that ensure that Alabama's sex offender laws remain the toughest in the country. This legislation accomplishes that by doubling the size of the protective zones that exist around places frequented by children. This increase in geographical size will keep sex offenders even further away from the targets of their depravity.

This bill also updates Alabama law by criminalizing video voyeurism; and, for the first time, it adds an "aiding and abetting" provision that makes it a felony for anyone to help sex offenders evade the law. These tough new provisions will increase protection for Alabama's children. Sadly, there is one downside—if the Alabama Legislature fails to pass this bill, our state will be placed in jeopardy of losing federal grant money currently used to fund essential law enforcement functions throughout Alabama. I sincerely hope that such a result does not come to fruition because I believe that our children deserve the best that we can offer.

Now, in addition to the Community Notification Act Amendments Bill, I am proud to announce that we will propose and urge the passage of the Online Solicitation Bill. I am equally sad to admit, however, that this is the third time that we have proposed this legislation without it becoming law. Most Alabamians probably expect that the law already makes it illegal for a predator to go online in search of a child victim. They are correct with respect to this expectation. However, many of them probably are not aware that there are courts in this State that will dismiss criminal charges stemming from an undercover police officer going online, posing as a child, and later identifying, arresting, and charging the predator. Those courts routinely dismiss the charges on the basis that the target solicited was not a child, but was instead an undercover police officer. This is intolerable, unacceptable—and as a father of three young children—frightening. Anyone who goes online looking to solicit a child, who believes he has solicited a child, and who is arrested for it, should not be allowed to hide behind a loophole in the law.

Additionally, for the first time, state law will now make it a felony for anyone to facilitate the travel of a child, or to travel themselves, to meet a child for inappropriate purposes. With the passage of this law, the loophole will close, and we will fully punish predators for what they intended to do—to solicit and harm a child.

Another bill in my package is the Chemical Endangerment of an Unborn Child Bill. There are many things children should, and do, inherit from their parents—their eye color, their hair color, their skin tones. No child should ever inherit their parents' drug addictions!

Morally, all of us agree that every child in Alabama has a right to be born free of drug addictions placed upon them by their parents. Now it is time for us to do so legally, as well. With the passage of this legislation, pregnant women who test positive for a controlled substance in their body during pregnancy could be charged with a Class B felony which, upon conviction, could result in them being sentenced to between two and twenty years in prison.

Once again, the passage of the Notoriety Bill will be a top priority of this Office. This legislation is written to deprive serial killers and rapists of enjoying the ill-gotten gains of their infamy. Those who have been placed behind the tallest walls in our State for the worst crimes in our history should not be allowed to reach through the bars of their cells and peddle their so-called "murderabilia" – despicable, depraved artwork and writings – thereby traumatizing and re-victimizing those they have already preyed upon. We ask the members of the Alabama Legislature not to allow this legislation to go through another session without passage. Don't make victims agonizingly wait any longer for this relief.

As I have traveled across Alabama, one thing has become clear: My bill on Attempting to Elude Law Enforcement is a serious piece of legislation that needs to be enacted. Law enforcement in this State is unified in its opinion that there is no more important piece of legislation that could be passed in Alabama than legislation to finally make it a felony to run

from the police. It is time to recognize that those who flee from the police at high speeds endanger the rest of the motor-ing public, as well as those who ride with them, and the members of law enforcement who pursue them. They must be punished accordingly.

My package also includes other bills that toughen Alabama's laws as they relate to those who drink, then get behind the wheel of a car, and then wield a weapon that is potentially as dangerous as a gun or a knife. The punishment for committing such reckless acts should reflect how seriously our State detests such behavior.

While these are only some of the bills that will make up my crime package, they are among the most important and urgent bills that will come before the Legislature this year or any year that these bills are not enacted. Once again, the families and children of Alabama are counting on us to act with this strong package of bills to help keep our loved ones safe, to defend our citizens against those who would exploit and violate their innocent victims, to provide stronger rules to assist law enforcement in their heroic efforts, and to safeguard our elections. I urge you to join me in calling upon our legislators to enact these important measures to make our State safer and to punish those who would endanger the good people of Alabama.

## Attorney General's 2009 Legislative Package: Bills of Top Priority to the Family Protection Unit

Attorney General Troy King has announced his 2009 legislative crime package. More than a dozen bills are being offered to protect children, to take profits away from outlaw gamblers, to provide tougher punishments for crimes, and to benefit victims. Four of the most notable bills regarding Alabama's children and crime victims are the Revisions to the Community Notification Act, the Online Solicitation Bill, the Chemical Endangerment of an Unborn Child Bill, and the Families to be Present at Executions Bill.

- The **Revisions to the Community Notification Act**, better known as the Adam Walsh Act, is sponsored by Representative Ken Guin and Senator Wendell Mitchell. This bill provides greater protection to the public by providing for more effective monitoring of convicted sex offenders, including their online activities. There would be greater information sharing between all levels of government, so that sex offenders could be more effectively tracked and monitored. The bill adds YMCA's and Boys and Girls Clubs to those facilities of which a sex offender may not live within 2,000 feet. It updates Alabama law to cover technological crimes such as video voyeurism, and it makes it a crime for someone else to help a sex offender circumvent the notification and registration law. Numerous additional safeguards and restrictions are included.
- The **Online Solicitation Bill** is sponsored by Representative Steve McMillan and Senator Myron Penn. This bill moves the law forward in two important ways. First, it specifies that attempted solicitation of a child victim is a crime, regardless of whether an actual child is involved. Currently, the law does not clearly and unambiguously convey that a person can be charged with soliciting a child by computer if the person being solicited is in fact a law enforcement officer and not a child. Second, to ensure that new technologies are included, it expands the law to make clear that it is a crime to solicit a child not just by computer, but by any online method. The class B felony of soliciting a child by computer could be charged if a person who is at least three years older than his victim believes he or she is soliciting a child less than 16 years of age.
- The **Chemical Endangerment of an Unborn Child Bill** is sponsored by Representative Frank McDaniel and Senator Lowell Barron. Currently, unborn children whose mothers abuse drugs have no protection of the law. This bill redefines the crime of possession of a controlled substance, to include also the presence of a controlled substance in a person's body. Therefore, pregnant women who test positive for a controlled substance would be subject to a class B felony. The sentencing judge could suspend the sentence and order a drug treatment program upon a first offense.
- The **Families to be Present at Executions Bill** is sponsored by Representative Billy Beasley. Under current law, only two immediate family members of the victim may be present at an execution. This bill would increase that number to eight immediate family members. It would also allow for the presence of the prosecuting district attorney (or his or her representative) and one officer from the arresting branch of law enforcement.



## Focus on Alabama Law

### MANDATORY REPORTING

In each issue of the *Victim's Voice*, the Office of the Attorney General will highlight an Alabama law that is either not well-understood by the general public or not well-known in the community. This office wants to assist the citizens of Alabama in becoming well-informed and proactive individuals.

Highlighted in this issue is Alabama's *Mandatory Reporting Statute*, one of many laws known by any properly trained professional having any contact with children. The Mandatory Reporting Statute can be found in the Code of Alabama 1975, Title 26, Chapter 14, Section 3. This particular law is not very lengthy, but what is conveyed in the statute is an unmistakable list of individuals and entities that must report known or suspected child abuse or neglect.

Many Alabamians are aware of the reporting obligation borne by social workers and healthcare, education, childcare, mental health, and law enforcement professionals. However, not many citizens are aware that in certain situations members of the clergy are also required to report known or suspected child abuse or neglect.

In 2003, the Alabama Legislature passed the "Kelly B. Hawkins Child Abuse Prevention Act." The Act is named after the section chief of the Attorney General's Family Protection Unit, Ms. Kelly Hawkins. This Act made clear to everyone that men and women of the cloth have an affirmative duty to report known or suspected child abuse or neglect, with one exception—**members of the clergy are not required to report known or suspected abuse or neglect that the clergyman learned about through a confidential communication.** Such communications are privileged by law, but of course, even this statute's exception has qualifiers. For example, a "clergyman" as defined in Rule 505 of the Alabama Rules of Evidence is "any duly ordained, licensed, or commissioned minister, pastor, priest, rabbi, or practitioner of any bona fide established church or religious organization." The term "clergyman" includes, and is limited to, any person who regularly, as a profession or vocation (meaning "job"), devotes a substantial portion of his or her time and abilities to the service of his or her church or religious organization. Although this definition of "clergyman" is a broad one, it does not include "all self-denominated" ministers.

The Office of the Attorney General understands that not everyone will know for certain whether this statute mandates them to report child abuse or neglect. Therefore, we encourage you to contact the Family Protection Unit at 1-800-230-9485 if you need further clarification on Alabama's *Mandatory Reporting Statute*.

## A Message from the Victim's Services Unit of Attorney General's Office



### Message from Ms. Vickie Todd, Victim Services Officer:

Dear Friends:

I truly enjoy serving as one of your Victim's Service Officers for the Attorney General's Office of Alabama. Previously, I was the State Victims' Advocate for Mothers Against Drunk Driving (MADD) for two years before I began working for the Attorney's General's Office. I became interested in helping victims when I began working at the United Methodist Children's Home in Selma over 16 years ago.

I have received "Certificates of Achievement" in the following Continuing Education courses: Children's Response to Trauma & Grief; Making Sensitive Referrals; Combating Impaired Driving Defenses; Parental Grief; Cultural Competency; Crisis Reactions; Boundaries; and Prosecutor Basics. This summer, **I will be attending Faulkner University to complete my degree.**

I am so thankful that my position allows me to meet different people from all walks of life. I find it fulfilling to help victims in our state and feel blessed to have this opportunity.

I also believe that the work that is done by the Attorney General's Victim Service Unit is so important because it helps victims of violent crimes feel that they do not have to go through their experience alone. I've often been told by victims that they feel as if the person who has committed a crime against them or a loved one has more rights than they do. When a family member contacts our office they have someone to listen to their concerns, and I think that this gives them a new sense of hope. I truly feel blessed to share in that new found hope.

Sincerely,

*Vickie Todd*

Victim Services Officer

*Vickie Todd is an invaluable asset to the public and to the Attorney General. She provides individual support and assistance to victims and their families to help them cope with the emotional trauma of victimization. She explains the complicated criminal justice and appeals processes and recommends ways to access the many resources throughout the state that are available to victims of crime. If you are the victim of a crime and would like to know what resources are available to you, please contact Vickie Todd at 1-800-626-7676 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.*



# PROTECTING ALABAMA'S CHILDREN



## WHAT IS CHILD ABUSE?

Child abuse is harm or threatened harm to a child's health or welfare which can occur through non-accidental physical or mental injury; sexual abuse or attempted sexual abuse; sexual exploitation or attempted sexual exploitation.

### SIGNS OF PHYSICAL ABUSE

#### *Physical Indicators*

- Unexplained bruises, welts, human bite marks, bald spots
- Unexplained burns, especially cigarette or immersion burns
- Unexplained fractures, lacerations, or abrasions
- Swollen areas
- Evidence of delayed or inappropriate treatment for injuries

#### *Behavioral Indicators*

- Self destructive
- Withdrawn and/or aggressive – behavioral extremes
- Arrives at school early or stays late as if afraid to be at home
- Chronic runaway (adolescents)
- Complains of soreness or moves uncomfortably
- Wears inappropriate clothing to cover body (ex. sweaters; long sleeves in hot weather)
- Bizarre explanation injuries
- Wary of adult contact
- Apprehensive when other children cry

### SIGNS OF NEGLECT

#### *Physical Indicators*

- Abandonment
- Unattended medical needs
- Consistent hunger, inappropriate dress, poor hygiene
- Lice, distended stomach, emaciated
- Inadequate nutrition

#### *Behavioral Indicators*

- Regularly displays fatigue or listlessness (falls asleep in class)
- Steals food, begs from classmates
- Reports that no caretaker is at home
- Frequently absent or tardy
- Self destructive
- School dropout (adolescent)
- Extreme loneliness and need for affection

### SIGNS OF EMOTIONAL ABUSE

#### *Physical Indicators*

Emotional abuse may be name-calling, insults, put-downs, etc., or it may be terrorization, isolation, humiliation, rejection, corruption, or ignoring.

- Speech disorders
- Delayed physical development
- Substance abuse
- Ulcers, asthma, severe allergies

#### *Behavioral Indicators*

- Habit disorders (sucking, rocking, biting)
- Antisocial, destructive
- Neurotic traits (sleep disorders, inhibition of play)
- Passive and aggressive behavioral extremes
- Delinquent behavior (especially adolescents)
- Developmentally delayed

### SIGNS OF SEXUAL ABUSE

#### *Physical Indicators*

Sexual abuse may be **touching** – fondling, molesting, oral sex, intercourse, or **non-touching** – obscene language, pornography, exposure.

- Torn, stained, or bloody underclothing
- Pain, swelling, or itching in the genital area
- Difficulty walking or sitting
- Bruises or bleeding in genital area
- Venereal disease
- Frequent urinary tract or yeast infections

#### *Behavioral Indicators*

- Withdrawal from others, chronic depression
- Excessive seductiveness
- Role reversal, overly concerned for siblings
- Poor self-esteem, lack of confidence
- Peer problems, lack of involvement
- Massive weight change / change in appetite
- Suicide attempts (especially adolescents)
- Crying, nausea, upset stomach
- Inappropriate sex play or premature understanding of sex
- Clinging to caregiver
- Unwilling to change clothes in front of anyone
- Exhibits fantasy or baby-like behavior
- Frequent nightmares / bed wetting
- Change in school performance

## WHEN TO REPORT

Make a report when you know or suspect that a child is being abused or neglected. Although it is not necessary to prove that the abuse or neglect happened, you should have at a minimum a good-faith suspicion, if not concrete knowledge, of the abuse or neglect. It is better to err on the side of wrongful reporting rather than risk further injury or death of a child. Do not delay in reporting if you do not have all the needed information. Additional information can be added later.



# UNDERSTANDING THE ALABAMA BOARD OF PARDONS AND PAROLES

By: Pete Smyczek



In the last issue of the Victim's Voice, I provided you with some basic information on the makeup, duties, and responsibilities of the Alabama Board of Pardons and Paroles. Also included was information on public meetings held by the Board and on notice that is given to victims regarding upcoming parole hearings. In this issue, I will tell you about the Board's procedures for granting parole, standards for release of prisoners on parole, how a parolee is retaken, and discharge from parole.

## BOARD PROCEDURES FOR GRANTING PAROLE

A majority vote (2/3) of the Board of Pardons and Paroles is required before a prisoner may be released on parole. In addition, the Board must be satisfied that the prisoner will be suitably employed in self-sustaining employment or that he or she will not require public assistance if released.

Unless the Board votes unanimously in favor of parole, the Board may not grant a parole to any prisoner who has not served at least one third or 10 years of his sentence.

Each member of the Board that favors a pardon, parole, remission of a fine or forfeiture, or restoration of civil and political rights is required to enter in the file his or her reasons in detail. This entry and the order given is a public record, but all other portions of the file are not.

The Board, in releasing a prisoner on parole, must specify in writing the conditions of his or her parole, and a copy of such conditions must be given to the parolee. A violation of such conditions may render the prisoner liable to arrest and re-imprisonment.

## STANDARDS FOR RELEASE OF PRISONERS ON PAROLE

No prisoner may be released on parole merely as a reward for good conduct or efficient performance of duties assigned in prison. The Board of Pardons and Paroles may only release a prisoner to parole if it believes there is a reasonable probability that the prisoner will live among society without violating the law, and that his or her release is in accordance with the welfare of society. If the Board reaches this determination, the prisoner is allowed to be released from prison, subject to any terms and conditions determined by the Board. While a prisoner is on parole, he or she legally remains in the custody of the prison warden until his term has expired, or unless fully pardoned.

## PAROLE OF PERSONS CONVICTED OF CERTAIN FELONIES

Any person convicted of:

1. murder, rape, robbery or assault with a deadly weapon, OR
2. any attempt to commit such acts, AND
3. directly resulted in serious physical injury to another, AND
4. the commission of the offense follows within five years of a previous conviction of another felony or attempted felony that resulted in serious physical injury to another,

must serve the entire sentence imposed and may not receive parole or any good time.

Where a criminal defendant has been convicted of a Class A felony resulting in a sentence of life imprisonment, and the crime is committed after a previous conviction of another Class A felony, he or she is not eligible for parole.

In addition, any person whose sentence to death has been commuted by the Governor may not be eligible for a parole.

## PAROLE OF PERSONS CONVICTED OF SEX OFFENSE INVOLVING A CHILD

Any person convicted of a Class A or B criminal sex offense involving a child under the age of 12 or any offense involving child pornography, after October 1, 2005, is not eligible for parole.

## RETAKING A PAROLEE

Each person released on parole is assigned a parole officer. If the parole officer or any member of the Board of Pardons and Paroles has cause to believe that a released prisoner has lapsed, or is probably about to lapse into criminal ways or company, or has violated an important condition of his parole, such officer or Board member shall report such fact to the Department of Corrections, which shall then issue a warrant for the retaking of the prisoner and his return to the prison designated.

Any parole officer, police officer, sheriff or other officer with power of arrest may arrest a parolee without a warrant so long as the arresting officer has a written statement by the parole officer setting forth that the parolee has, in his judgment, violated the conditions of parole. Any person who is arrested for violating his or her parole is entitled to a hearing to determine whether the person is guilty of violating parole.

## DISCHARGE FROM PAROLE, GENERALLY

No person released on parole may be discharged from parole prior to the expiration of the full term for which he was sentenced, unless he or she is sooner fully pardoned. The Board of Pardons and Paroles, however, may relieve a prisoner on parole from making further reports and may permit the person to leave the state or county if satisfied that it is in the best interests of society.



## COMMUNITY EVENTS

The Family Protection Unit (FPU) of the Office of the Attorney General is committed to educating the public and other law enforcement and legal professionals on issues affecting our state's children and elderly. Assistant Attorneys General Kelly Hawkins and Hallie Dixon will be in the community on the following dates:

♦ **Monday, April 13, 2009**

**Lost in Cyberspace**

Hoover High School  
Hoover, Alabama at 6:00 p.m.

♦ **Wednesday, April 22, 2009**

**Elder Abuse: Training for Law Enforcement**

Metro Pistol Range  
Mobile, Alabama from 10:00 a.m. until 2:00 p.m.

♦ **Thursday, April 23, 2009**

**Child Advocacy**

Thomas Goode Jones School of Law  
Montgomery, Alabama at 4:00 p.m.

♦ **Thursday, April 23, 2009**

**Prosecuting Child Sex Abuse Cases: Child Death Review**

Montgomery, Alabama (location and time to be announced)

♦ **Saturday, April 25, 2009**

**Cyber-Bullying**

Eastdale Mall  
Montgomery, Alabama (time to be announced)

The Family Protection Unit (FPU) welcomes any opportunity to speak to neighborhood associations, churches, community coalitions, schools, and other civic organizations. Feel free to contact the FPU at 1-800-230-9485 to schedule a presentation for your organization. Please have the following information ready when placing your call: Name of your organization, contact person, good contact number, number of members in your organization, location where you would like to have the presentation, and the specific topic you would like to have presented to your organization. The FPU currently offers presentations on the following topics:

- Teen Safety
- Lost in Cyberspace
- Church Safety
- Law Enforcement Training for Professionals
- Sex Offender Registration & Community Notification Laws
- Child Abuse & Elder Abuse

## LINKS & RESOURCES

**Office of the Attorney General  
State of Alabama**

11 South Union Street  
Montgomery, Alabama 36130

Office: (334) 242-7300

Toll Free: (800) 626-7676

[www.ago.state.al.us](http://www.ago.state.al.us)

Email: [troyking@ago.state.al.us](mailto:troyking@ago.state.al.us)

**Attorney General's  
Family Protection Unit**

(800) 230-9485

[www.ago.state.alabama.gov](http://www.ago.state.alabama.gov)

**Attorney General's  
Victim Assistance**

(800) 626-7676

[www.ago.state.alabama.gov](http://www.ago.state.alabama.gov)

**Alabama Crime Victims  
Compensation Commission**

(800) 541-9388

(334) 290-4420

[www.acvcc.state.al.us](http://www.acvcc.state.al.us)

**Victims of Crime and Leniency (VOCAL)**

(800) 239-3219

[www.vocalonline.org](http://www.vocalonline.org)

**Alabama Coalition Against  
Domestic Violence**

(334) 832-4842

[www.acadv.org](http://www.acadv.org)

**Mothers Against Drunk Driving**

(800) 635-0722

(334) 277-7722

[www.madd.org](http://www.madd.org)

**Alabama Network of Children's Advocacy Centers**

(334) 834-3468

[www.alabamacacs.org](http://www.alabamacacs.org)

**Alabama Coalition Against Rape**

(334) 264-0123

[www.acar.org](http://www.acar.org)